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COUNTY COUNSEL MARTINEZ CALIF.

## ORDINANCE NO. 97-8

## AMENDING MOBILEHOME SPACE RENT STABILIZATION ORDINANCE

Passed 305

The Board of Supervisors of the County of Contra Costa ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance amends Chapter 540-2 of the County Ordinance Code, on mobilehome space rents in specified mobilehome parks, to amend the formula for determining the standard annual rent increase, to add a definition for the term "maintenance and repair," to impose time requirements for noticing and holding meetings regarding rent increases and providing the list of affected mobilehome owners to the Rent Review Officer, to provide that the list of affected mobilehome owners must be made available to the homeowners' representative, to clarify the manner of providing notices of rent increases and meetings, and to make other clarifying and non-substantive amendments.

- SECTION II. Section 540-2.204 of the County Ordinance Code is amended, to correct clerical errors in subdivisions (e) and (p), and by adding a subdivision (s) to define the term "maintenance and repair," to read:
- 540-2.204 Definitions. As used in this chapter, the following words and phrases shall have the meanings set forth herein unless it is apparent from the context that a different meaning is intended.
- (a) "Affected mobilehome owners" means all mobilehome owners in a mobilehome park who have been notified by the park owner that a rent increase is to become effective on the same date, or who have been otherwise made aware, in the absence of such notification, that a rent increase (including a reduction in housing service) has or is to become effective on the same date.
- (b) "Base rent" means the space rent charged and allowed by County ordinance on September 20, 1994, plus any rent increase allowed thereafter pursuant to this chapter unless otherwise provided. The base rent for any mobilehome space that was not occupied on September 20, 1994 shall be the highest space rent charged by the park owner for a comparable space in the park on September 20, 1994, plus any rent increases allowed thereafter pursuant to this chapter unless otherwise provided.

- (c) "Capital improvements" means those expenditures at a mobilehome park that may be characterized as capital improvements for federal income tax purposes.
- (d) "Consumer Price Index" means the Consumer Price Index for all Urban Consumers, San Francisco-Oakland-San Jose Area (or, if the area designation is revised, for the area which encompasses the County of Contra Costa), published by the U.S. Department of Labor, Bureau of Labor Statistics.
- (e) "Hearing Officer" means a person designated by the Rent Review Officer to hear a petition pursuant to this chapter who is neither a mobilehome owner nor who has an interest in a mobilehome park of a nature that would require disqualification under the provisions of the Political Reform Act if the person is an elected state official.
- (f) "Housing service" means a service provided by the park owner related to the use or occupancy of a mobilehome space, including but not limited to maintenance of the common area of the mobilehome park, for which the park owner expends money or other quantifiable consideration. For purposes of this ordinance housing services do not include intangibles or other benefits associated with living at the property for which the park owner does not expend money or other quantifiable consideration.
- (g) "Mobilehome" means a structure designed for human habitation and for being moved on a street or highway under permit pursuant to section 35790 of the Vehicle Code. "Mobilehome" includes manufactured home, as defined in the Health and Safety Code, but does not include a recreational vehicle, as defined in section 799.29 of the Civil Code, or a commercial coach, as defined in section 18001.8 of the Health and Safety Code, or factory-built housing as defined in section 19971 of the Health and Safety Code.
- (h) "Mobilehome owner" means a person who has a tenancy in a mobilehome park under a rental agreement, having the right to the use of a mobilehome space on which to locate, maintain and occupy a mobilehome, site improvements, and accessory structures for human habitation, including the use of the services and facilities of the mobilehome park. "Mobilehome owner" does not include a person who is a resident in a mobilehome but who does not have a tenancy.
- (i) "Mobilehome park" means any area or tract of land within the county where two or more mobilehome spaces are rented, or held out for rent, to accommodate mobilehomes.
- (j) "Mobilehome space" means the site within a mobilehome park intended, designed, or used for the location or accommodation of a mobilehome and any accessory structures or appurtenances attached thereto or used in conjunction therewith. "Mobilehome space" does not include any newly constructed space initially held out for rent after January 1, 1990, or a space occupied by a recreational vehicle.

- (k) "Park Owner" means a person or entity that owns or operates a mobilehome park business in the unincorporated territory of the County.
- (l) "Percent change in Consumer Price Index" means the annual percent change in the Consumer Price Index, calculated to the nearest tenth, published for the month of May, issued in the month of June. In the event that an index is not published for the month of May that is issued in the month of June, the closest preceding month for which an index is published shall be used.
- (m) "Rental agreement" means an agreement between the park owner and the mobilehome owner for the use and occupancy of a mobilehome space establishing the terms and conditions of mobilehome park tenancy. A lease is a rental agreement.
- (n) "Rent increase" means any additional space rent demanded of or paid by a mobilehome owner for a mobilehome space, including any reduction in housing services without a corresponding decrease in the amount demanded or paid for space rent.
- (o) "Rent Review Officer" means the person or persons designated by the County Administrator to administer and enforce the provisions of this ordinance.
- (p) "Service reduction" means any reduction in housing service below the level of service existing on or after September 20, 1994, which results in a cost savings to the park owner without a corresponding decrease in rent. The reduction or deferment of maintenance below the level existing on or after September 20, 1994 may constitute a service reduction. However, normal wear and tear of the common area and/or mobilehome space does not constitute a service reduction.
- (q) "Space rent" means the money demanded and received by a park owner for the use or occupancy of a mobilehome space and the non-exclusive use of the common area facilities, but excluding separately billed utilities or reasonable charges for services actually rendered. Nothing in this chapter shall be deemed to regulate rent charged for mobilehomes, as opposed to mobilehome spaces.
- (r) "Substantial rehabilitation" means that work done by a park owner to a mobilehome space, housing services, or to the common area of the mobilehome park, exclusive of a capital improvement, the value of which exceeds two hundred dollars and which is performed either to secure compliance with any state or local law or to repair damage resulting from fire, earthquake, or other casualty or natural disaster, to the extent the cost of such work is not reimbursed by insurance, security deposit proceeds, or any other source.
- (s) "Maintenance and repair" means expenditures to keep the property in good working order.
  (Ords. 97-8, § 2; 95-31.)

SECTION III. Section 540-2.404 of the County Ordinance Code is amended, to change the standard annual rent increase, to read:

540-2.404 "Standard" Annual Rent Increases. Except as provided in section 540-2.406, 540-2.408 and 540-2.410, the space rent payable for use or occupancy of any mobilehome space shall not be increased by a park owner within any twelve-month period more than the greater of:

- (1) Two percent (2 %); or
- (2) Seventy-five percent (75 %) of the percent change in the Consumer Price Index, provided that no rent increase of more than six percent (6%) may be imposed pursuant to this section.

All standard rent increases shall become a part of the base rent upon which future rent increases are based.

The initial standard rent increase shall be allowed on or after ninety (90) days after the effective date (July 27, 1995) of this ordinance provided all required notices have been given. (Ords. 97-8, § 3; 95-31.)

SECTION IV. Section 540-2.408 of the County Ordinance Code is amended to correct a clerical error in the last sentence of the first paragraph, to read:

540-2.408 Capital Improvement Rent Increases. A park owner may increase a mobilehome owner's space rent based on the mobilehome owner's pro-rata share of capital improvement expenditures in the park. The purpose of this section is to provide the park owner a streamlined procedure for recovering capital improvement dollars invested in the mobilehome park. Any such rent increase shall be amortized over the useful life of the capital improvement, using the table of capital improvement set forth in section 540-2.1210. If the table of capital improvement life expectancies in section 540-2.1210 is not applicable, the park owner shall use the "Class Life Asset Depreciation Range System" ("ADR System"). Interest may be imputed on any such rent increases using the prime rate in effect thirty (30) days prior to the date of the application, plus two percent (2 %). However, in no event may any single rent increase, or any cumulative rent increases under this section exceed five percent (5 %) of the mobilehome owner's then existing rent.

Any rent increase implemented under this section based on the cost of capital improvement shall not be included as part of the base rent upon which future rent increases under this chapter are based and shall be deleted from the space rent once the mobilehome owner's prorata share of the capital improvement rent increase has been recovered.

Nothing in this section shall preclude a park owner from foregoing the right to seek a rent increase under this section and instead applying for a major rent increase, including applying for a major increase based on capital improvement expenditures that would otherwise result in a rent increase in excess of five percent (5 %) of the mobilehome owner's then existing rent. (Ords. 97-8, § 4; 95-31.)

- SECTION V. Section 540-4.602 of the County Ordinance Code, on notice and meeting requirements, is renumbered to 540-2.602, to correct a clerical error, and amended to include strict time limits for the requirements of said section, to read:
- 540-2.602 Notice and Meeting. (a) Notice of increase. At least ninety (90) days before instituting a rent increase and/or decreasing a housing service, a park owner shall give written notice of the proposed action, to all affected mobilehome owners. Said notice shall provide the following information:
- (1) Standard and/or administrative rent increase. For rent increases pursuant to subsection (a) and/or (b) of sections 540-2.404 and/or 540-2.406, the amount of the rent increase both in dollars and as a percentage of existing space rent and either one or both of the following:
  - (A) A statement that the park owner considers the rent increase consistent with the standard rent increase limitations of section 540-2.404 and/or
  - (B) A statement that the proposed rent increase is to recover the cost of rent stabilization administration fees pursuant to section 540-2.406. The notice shall include information supporting the increase, including calculations used by the park owner to apportion the cost of the administrative fee among the affected mobilehome owners;
- (2) Reduction in housing service. For a reduction in a housing service with or without a decrease in space rent, the specific housing service or services to be reduced and the decrease in space rent to be effectuated, if any. The park owner shall also provide any explanation or justification for the proposed action;
- (3) Capital improvement increase. For a capital improvement increase, the amount of the rent increase both in dollars and as a percentage of existing rent, the duration of the rent increase, facts explaining and supporting the increase, including calculations used to determine how the amount of the increase was determined and apportioned;
- (4) Major rent increase. For a major rent increase other than a reduction in housing service without a concurrent decrease in space rent, the amount of the rent increase both in dollars and as a percentage of existing space rent and facts supporting the increase.

- (b) Notice of meeting. Concurrently with providing notice of a rent increase as required in subdivision (a), above, or as soon thereafter as practicable, the park owner shall provide at least thirty (30) days' advance written notice of a meeting to discuss the rent increase, and to provide an opportunity for the affected mobilehome owners to ask questions of the park owner or the park owner's representative about the rent increase. The notice of the meeting shall include the time or times of the meeting, which time(s) shall be convenient for as many affected mobilehome owners as is reasonably practicable, and the exact location of the meeting, which shall be at the mobilehome park. The informal meeting, once begun, may be continued by the park owner to another date or time. The rent increase shall not become effective until forty-five (45) days after the commencement of the informal meeting.
- shall serve a copy of the notice of rent increase and a list of the names and addresses of all persons receiving the notice upon the Rent Review Officer at least eighty-five (85) days before the effective date of the rent increase. The Rent Review Officer shall acknowledge the date of receipt of the notice and list of names in writing upon the request of the park owner. The park owner shall provide a copy of the names and addresses of all mobilehome owners receiving notice to the mobilehome owners' representative within five (5) days of the date of request therefor by the mobilehome owners' representative. Failure to provide a copy of the names and addresses of affected mobilehome owners shall not invalidate the rent increase, but the rent increase shall be delayed one day for each day after five days after the date of request, until the names and addresses of the affected mobilehome owners have been provided.
- (d) Manner of giving notice. Notices of rent increases or of meetings required by this chapter shall be given personally to the affected mobilehome owner, deposited in the United States mail, postage prepaid, addressed to the homeowner at his or her site within the mobilehome park, or by other manner agreed upon in writing by and between the park owner and the affected mobilehome owner. Affixing a notice on the door or other part of a mobilehome shall not constitute valid delivery, and shall not constitute substantial compliance with the requirements of this section unless such manner of delivery is agreed to in writing by the affected mobilehome owner.

(Ords. 97-<u>8</u>, § 5; 95-31.)

SECTION VI. Section 540-2.604 of the County Ordinance Code is amended, to include some of the minimum requirements that must be met before a rent increase becomes effective, to read:

540-2.604 Failure to comply. Any rent increase, other than a reduction in housing service without a concurrent decrease in space rent, imposed by the park owner without providing notice that substantially complies with the requirements of section 540-2.602 or without holding a meeting shall be void and invalid, and such failure to comply by the park owner shall be a defense in any action brought by the park owner to recover possession of the mobilehome space or to collect any rent increase that should have been covered by such notice and meeting. A rent increase shall not be considered to be in substantial compliance with the

requirements of section 540-2.602 until at least all of the following requirements are met within the following time frames:

- (a) The park owner has provided at least thirty (30) days' notice of an informal meeting to all mobilehome owners affected by the proposed rent increase;
- (b) At least forty-five (45) days have elapsed following the holding or commencement of the informal meeting to discuss the rent increase;
- (c) At least ninety (90) days have elapsed since the provision of a notice of rent increase which contains all of the information required by section 540-2.602; and
- (d) At least eighty-five (85) days have elapse following the Rent Review Officer's receipt of the notice of rent increase and a complete list of the names and addresses of all of the mobilehome owners who received notice of the rent increase. (Ords. 97-8, § 6; 95-31.)
- SECTION VII. Section 540-2.804 of the County Ordinance Code is amended, to expressly require a petition to state the name and address of the park owner and the park owner's representative, if known to the homeowners, and to make certain clarifying changes to subdivision (b), to read:
- 540-2.804 Petition. (a) The Rent Review Officer shall review a rent increase upon the filing of a petition in the Office of the Clerk of the Board of Supervisors. The petition shall be signed by more than fifty percent (50%) of the mobilehome owners affected by the rent increase. For purposes of determining the sufficiency of the petition, only one homeowner per occupied space shall be counted. The petition shall include a brief summary of the amount of disputed space rent increase or reduction in service without concurrent decrease in space rent, and shall designate the name and address of the mobilehome owners' representative, the name and address of the mobilehome park, and the name and address of the park owner and the park owner's representative if known to the homeowners.
- (b) Subject to section 540-2.604, the petition shall be filed no later than thirty (30) days after the effective date of the rent increase, except that for a reduction in housing service without a concurrent reduction in space rent for which notice and a meeting was not provided, a petition may be filed no later than sixty (60) days after discovery of the alleged rent increase. With respect to major rent increases effective before the effective date of this chapter but after September 20, 1994, the petition shall be filed within thirty (30) days after the effective date (July 27, 1995) of this chapter. No petition may be filed to review rent increases effective on or before September 20, 1994.
- (c) The petition shall be accompanied by any filing fee imposed by the Board of Supervisors to defray the cost to the County of processing the petition and conducting the major rent increase review.

(d) Upon the filing of the petition, the Clerk of the Board of Supervisors will forthwith forward the petition to the Rent Review Officer. (Ords. 97-8, § 7; 95-31.)

SECTION VIII. SEVERABILITY. This ordinance shall be liberally construed to achieve its purposes and preserve its validity. If any provision or clause of this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable and are intended to have independent validity.

SECTION IX. PREEMPTION. Nothing in this ordinance is intended, and should not be deemed, to excuse or prevent compliance with any State or federal law. If any provision of this ordinance is found by a court of competent jurisdiction to be preempted by any applicable State or federal law, the Board of Supervisors declares that its intent is for such provision to be severable from the remainder of the ordinance, and the remainder of the ordinance is to be given effect in accordance with the provisions of Section VIII of this ordinance.

SECTION X. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of the Supervisors voting for and against it in the Contra Costa Times, a newspaper published in this County.

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AYES: NOES: ABSENT: ABSTAIN:	None None	Rogers,	Uilkema,	Gerber,	Canciamilla,	DeSaulnier
ATTEST: Phil Batchelor, Clerk of the Board of Supervisors and County Administrator						
By: <u>Ilu</u> Depu	ley Cas.	llas		Musel	Board Chair	<u></u>

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